UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,240	02/14/2006	Naomi Nishikata	VPM-00101	9555

26339   7590   12/29/2009
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EXAMINER
HUYNH, NAM TRUNG

ART UNIT	PAPER NUMBER
2617	

MAIL DATE	DELIVERY MODE
12/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _28 September 2009_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-18_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

This office action is in response to amendment filed on 6/12/09. Of the

previously presented claims 1-18; claims 1-7, 11, 12, 17, and 18 were amended.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
        obviousness or nonobviousness.

3.   Claims 1-7 and 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Thiriet (US 6,650,892) in view of Masuyama et al. (US 2004/0029640).

Regarding claim 1, Thiriet teaches a mobile communication terminal (figure 1,

MS), comprising:

first memory means (memory resident on mobile station) and second memory

means for storing data (ROM of SIM) (column 2, lines 32-36);

an operating system (processor module (PRM) of MS) arranged to access data

stored in said first memory means (PRM has access to data stored locally on the mobile

station) (column 3, lines 53-57);

an application program execution environment (Java language interpreter) that is

executable on said operating system and that executes a platform-independent

application (Java game program), said platform-independent application having access

to data stored in said second memory means (Java language interpreter accesses

game program stored on ROM of SIM and is platform-independent in two ways: 1) the

interpreter is located in the SIM which is an independent platform of the mobile device

2) Java is a software platform independent of the software platform of the mobile device

(column 2, lines 37-40);

data transfer means for transferring detection result data (input commands) to

said second memory means, according to a data transfer instruction from said

application execution environment (data concerning input commands are transferred to

the game program) (column 3, lines 52-57),

wherein said application execution environment executes said platform-

independent application using the detection result data (input commands) stored in said

second memory means (detection of inputs are used to execute or play the game

program stored in ROM of SIM) (column 3, lines 47-62).

Thiriet does not explicitly teach that the detection result data is stored in said first memory means. However, one of ordinary skill in the art would recognize that when a key or button is pressed on a mobile phone, data associated with the key press is stored in the local memory. Therefore it would have been obvious to one of ordinary skill in the art to store key presses or input commands in order for an application to retrieve user input for operation of the application.

Thiriet also does not explicitly teach:

detection means for detecting at least one of position, direction, attitude and movement of the mobile communication terminal along at least one axis of a coordinate system;

memory process means for performing a memory process to store detection result data acquired based on detection results by said detection means in said first memory means, wherein the detection result data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal along the at least one axis; and

Masuyama discloses a game system and game information storage medium used for the same. Masuyama teaches:

detection means for detecting at least one of position, direction, attitude and movement of the mobile communication terminal along at least one axis of a coordinate system (paragraph 99);

memory process means (work RAM) for performing a memory process to memorize store detection result data acquired based on detection results by said

detection means in said first memory means, wherein the detection result data includes information concerning changes to the at least one of position, direction, attitude and movement of the mobile communication terminal along the at least one axis (figure 17, movement data is stored in the work RAM resident on the portable game apparatus). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Thiriet to allow the game to be played using movement detection, as taught by Masuyama, in order to allow the user to play a game by tilting, moving, or giving impact to the mobile station thereby enhancing the interest and experience of the game.

Regarding claim 2, Thiriet teaches said application execution environment has an instruction set for generating said data transfer instruction according to description in said platform-independent application (column 3, lines 47-62).

Regarding claim 3, Thiriet teaches an application (game program), characterized in that a computer in said mobile communication terminal according to claim 2 works so that the application program execution environment generates said data transfer instruction using said instruction set, by being executed by said application execution environment (column 2, lines 37-40; column 3, lines 47-62).

Regarding claim 4, the limitations are rejected as applied to claim 1. Masuyuma further teaches a 3-axis magnetic sensor and a 2-axis acceleration sensor used as detection means for detecting at least one of position, direction, attitude and movement of the mobile communication terminal in connection with at least one axis of a coordinate system in accordance with a detection instruction generated by said

platform-independent application execution environment according to a description of

said application program (game program) (paragraphs 99, 108, the detecting means

and acceleration sensor are used for instructions to play a game).

Regarding claim 5, the limitations are rejected as applied to claim 1. Masuyuma

further teaches data process means for performing data process of assigning the

detection data of said detection means to predetermined arithmetic expression (count

value) for calculation and storing the calculation result data in said memory means,

wherein the detection data includes information concerning changes to the at least one

of position, direction, attitude and movement of the mobile communication terminal in

connection with the at least one axis (paragraphs 103, 104).

Regarding claim 6, the limitations are rejected as applied to claim 1. Masuyama

teaches data process means (CPU) for performing data processes of linking mutually

between detection data of said detection means or data calculated from this detection

data (acceleration sensor output data) and other data (game map information) acquired

by means other than said detection means (acquired from game program), and storing

the linked data in said memory means (work RAM), wherein the detection data includes

information concerning changes to the at least one of position, direction, attitude and

movement of the mobile communication terminal in connection with the at least one axis

(figure 17).

Regarding claim 7, the limitations are rejected as applied to claim 1. Masuyama

further teaches data process means for performing a data process of specifying at least

two of detection data of said detection means or data calculated from the detection data

(X or Y axis outputs), which meet predetermined conditions (during a period), and

storing the specified data in said memory means, wherein the detection data includes

information concerning changes to the at least one of position, direction, attitude and

movement of the mobile communication terminal in connection with the at least one axis

(figure 17).

Regarding claim 9, Masuyama teaches said detection means includes angle

detection means for detecting an angle against the standard angle around a virtual axis

leading to a specified direction (paragraph 99, 113).

Regarding claim 10, Masuyama teaches said detection means includes

acceleration detection means for detecting acceleration toward a specified direction

working on said mobile communication terminal (paragraph 99).

Regarding claim 11, the limitations are rejected as applied to claim 1.

Regarding claim 12, Masuyama teaches the application execution environment is

executed using a process that is the same as the memory processor (paragraph 98, the

CPU executes the game program and controls operation of the memory).

Regarding claim 13, Thiriet teaches the first memory (local memory of mobile

station) and the second memory (ROM of SIM) are different memory locations on a

memory device (column 2, lines 37-40).

Regarding claim 14, Masayuma teaches the at least one sensor includes at least

one of: a magnetic sensor and an acceleration sensor (paragraph 99).

Regarding claim 15, Masayuma teaches the at least one sensor includes a

geomagnetic sensor (paragraph 99).

Regarding claim 16, Masayuma teaches the coordinate system includes a spatial

three-axis coordinate system (paragraph 99).

Regarding claim 17, Masayuma teaches execution of the platform-independent

application using the detection result data includes displaying an action on a display of

the mobile communication terminal that corresponds to a change in the at least one of

position, direction, attitude and movement of the mobile communication terminal

(paragraph 100).

Regarding claim 18, Masayuma teaches execution of the platform-independent

application using the detection result data includes causing at least a portion of the

platform-independent application to stop executing the control in response to a change

in the at least one of position, direction, attitude and movement of the mobile

communication terminal (paragraphs 100, 117; a change in direction would stop the

application program to stop executing control in the particular direction).

4.   Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thiriet

(US 6,650,892) in view of Masuyama et al. (US 2004/0029640), as applied to claims 5,

6, or 7 above, and further in view of Hartman et al. (US 7,175,529).

The combination of Thiriet and Masuyuma teaches the limitations set forth in

claims 5, 6, or 7, and that the mobile communication terminal further comprises radio

communication means for communicating outside by wireless communication utilizing

radio waves (paragraph 98), but does not explicitly teach radio wave strength

confirmation means for confirming strength of the radio waves utilized by said radio

communication means at specified time intervals; wherein said data process means is

used as at least one part of said radio wave strength confirmation means and performs

said data process when confirming radio wave strength. Hartman teaches a RF

receiver module for receiving game signals that comprises a receive signal strength

indicator (RSSI) level detector module for detecting signals from a game controller that

transmits at different time intervals. If the RSSI level is of sufficient strength the

detector module sends a data enable signal (confirmation of signal strength at specified

time intervals). When the signal is considered valid, the saved game data (perform data

process) is passed (column 5, lines 52-67, column 6, lines 26-45). Therefore it would

have been obvious to one of ordinary skill in the art at the time the invention was made

to modify the combination of Thiriet and Masuyama, to include a RSSI level indicator, as

taught by Hartman, in order to inform a user of the invention of the signal strength for

playing a game using the modem. This modification enhances the flexibility of the

invention by allowing a user to take action in response to signal strength (i.e. a user

may move to a location with stronger signal strength while participating in a game).

Response to Arguments

5.   Applicant's arguments with respect to claims 1-18 have been considered but are

moot in view of the new ground(s) of rejection.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to NAM HUYNH whose telephone number is (571)272-

5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, George Eng can be reached on 571-272-7495. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nam Huynh/
Examiner, Art Unit 2617

/George Eng/
Supervisory Patent Examiner, Art Unit 2617